CLINTON ADMINISTRATION MUST RESPOND FORCEFULLY TO CUBAN ESPIONAGE

Mr. HELMS. Mr. President, the recent discovery of a sophisticated spy ring operating in U.S. territory is a wake-up call to all who assume that Fidel Castro is no longer America's tireless enemy. The Federal Bureau of Investigation is to be congratulated for its excellent work, and, I ask unanimous consent that the Bureau's press release (dated September 14, 1998) be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL BUREAU OF INVESTIGATION

[Press Release—Date: September 14, 1998—contact: SA Mike Fabregas or Ausa John Schlesinger]

FBI DERAILS CUBAN INTELLIGENCE NETWORK

Hector M. Pesquera, Special Agent in Charge (SAC) of the Miami Division of the Federal Bureau of Investigation (FBI) and Thomas E. Scott, United States Attorney for the Southern District of Florida announce the arrests of ten (10) individuals for conducting espionage activities against the United States for the Republic of Cuba.

The arrest of ten (10) individuals in South Florida on September 12, 1998, marked the culmination of a lengthy investigation into subversive activities by the Cuban Intelligence Service. The ten (10) individuals arrested were directed to infiltrate and spy on United States agencies and installations. These agents also attempted to infiltrate and manipulate Anti-Castro groups within the South Florida community.

The individuals arrested by the FBI include: Alejandro M. Alonso, date of birth November 27, 1958; Ruben Campa, date of birth September 15, 1965; Rene Gonzalez, date of birth August 13, 1956; Antonio Guerrero, Jr., date of birth October 16, 1958; Linda Hernandez, date of birth June 21, 1957; Nilo Hernandez-Mederos, date of birth March 31, 1954; Luis Medina, date of birth July 9, 1968; Joseph Santos-Cecilia, date of birth October 9, 1960; Amarilys Silverio-Garcia, date of birth September 23, 1961; Manuel Viramontez, date of birth January 26, 1967.

Search warrants executed at several locations in South Florida yielded disguises, radios, antennas, maps, computers, money, and other items.

Sac Pesquera and U.S. Attorney Scott would like to commend the efforts of the Naval Criminal Investigative Service (NCIS) who assisted greatly in this investigation.

Mr. HELMS. Mr. President, the fact that several U.S. military installations were among the targets of this spying is evidence that the Castro regime is a menace to the national security of the United States. According to a reliable 1996 report, Cuban commandos have been training in Vietnam at least since 1990 to carry out strikes against U.S. military bases, precisely the target of the attempted infiltrations of last week.

Mr. President, the Clinton Administration simply cannot and must not default on its clear obligation to respond to this and other hostile actions by Cuba.

First, the Federal Bureau of Investigation is obliged to pursue this espionage conspiracy relentlessly. Any and all Cuban personnel working in any diplomatic posts in Washington, D.C., and at the United Nations, who had contact with this spy ring should be detained, prosecuted, and/or expelled without delay.

Future requests by Cuban ''diplomats'' to travel beyond the confines of Washington, D.C., or New York—particularly to South Florida—should be summarily denied.

Second, U.S. officials, exile groups, and citizens who have been, or are, targets of Cuban spies should be warned by U.S. authorities of this threat.

Third, it is imperative to hold the Russians accountable for their continued eavesdropping on U.S. defense and commercial communications at the state-of-the-art intelligence facility at Lourdes, Cuba. According to reliable published reports, sensitive U.S. information gathered at Lourdes is in the possession of Castro's Cubans and made available to other rogue states to use against the United States. The Russians compensate Castro for this spy platform through a generous oil-for-sugar deal—at a time when Moscow looks to the United States and the international community for multi-billion-dollar hand-outs of the American taxpayers' money.

Mr. President, the Clinton Administration at this very moment is contemplating a huge increase in U.S. aid to Russia, has therefore soft-peddled this grave security threat for too long. The removal of the Lourdes facility and an end to the related compensation to the Cubans must be given top priority in U.S.-Russian relations—and as a subject to be considered in the instances of future U.S. aid proposals.

Fourth, this hostile espionage should put to rest the absurd notion—conceived by the Cuban regime and being considered by Administration officials—that the United States should ''cooperate'' with the Cuban government to fight drug trafficking in the Caribbean. Any serious talk about anti-drug cooperation should be deferred until after Castro surrenders the half-dozen senior Cuban officials who have been indicated in U.S. courts for smuggling drugs into the United States.

Fifth, senior Administration policy makers have informed members of the Senate Foreign Relations Committee staff that they see no connection between the spy ring and the Clinton plan to give U.S. food aid to the United Nations for Cuba. In light of the espionage revelations, it is incumbent upon the State Department and U.S.A.I.D. to make certain that any food that the Administration proposes to donate to needy Cubans must be conducted entirely through international, independent relief groups operating under scrupulous monitoring.

And, sixth, Mr. President, Americans have long awaited the Clinton Administration's getting around to holding Castro's officials accountable for the terrorist attack carried out by Cuban MIGs on two unarmed Cessnas in February 1996. The fact that this attack on two small planes which were over international waters went unpunished has emboldened the Castro regime to act against us.

The Department of Justice should proceed promptly with an investigation of this incident in connection with the indictment of the Cuban officials involved. It should be done under section 32 of title of the U.S. Code for the willful, premeditated destruction of two civil aircraft resulting in the deaths of Pablo Morales, Carlos Costa, Mario de la Pena, and Armando Alejandre.

Mr. President, the Clinton Administration has an obligation to defend America's national security against any country determined to do us harm.

Surely, decades of fighting tyrants has taught us that appeasement and unilateral concessions serve only to tempt our enemies. If the Administration fails to hold Castro accountable for his repeated acts of treachery against us, it will tempt him to escalate them.

TRIBUTE TO MRS. MINAL KUMAR

Mr. INOUYE. Mr. President, I rise today to pay tribute to the late Mrs. Minal Kumar, who throughout her exceptional career dedicated herself to public service. Mrs. Kumar's extraordinary humanitarian efforts and outstanding contributions have improved the lives of women, children and infants in Hawaii.

As the sole nutritionist on the Island of Kauai for the State of Hawaii Department of Health's Women, Infants and Children program, Mrs. Kumar nearly tripled the program's caseload in six years. She opened clinics in the outlying areas of the underserved communities of Hanalei, Kilauea and Waimea, and was the first nutritionist to serve the Island of Niihau. The central theme of her work was encouraging and supporting mothers to breast feed their children, the infant feeding method recommended to improve the health of infants.

In remembrance of her many accomplishments, her co-workers have built a garden at the Hawaii Department of Health's Kauai District office and a memorial fund in her name has been established by Hawaii Mothers' Milk, Inc. I ask my colleagues to join me in paying tribute to the late Minal Kumar for all she has done for the people of Hawaii.

INDEPENDENT COUNSEL LAW

Mr. MOYNIHAN. Mr. President, I rise to commend to the Senate a most timely and informative article which appeared in the New York Times on August 11, 1998. Written by Todd S. Purdum, the article provides a useful overview of the twenty year history of the independent counsel law and interviews seven of the attorneys who have

served in this capacity since the adoption of the Ethics in Government Act of 1978.

Most of those interviewed cite problems with the way the independent counsel process currently works and provide specific recommendations for improvement. Those of us in the Congress will soon have an opportunity to review this matter in greater detail for, as you may know, its current provisions, reauthorized and amended by the Independent Counsel Reauthorization Act of 1994, P.L. 103–270, June 30, 1994, will expire on June 30, 1999, unless reauthorized.

I ask unanimous consent to have this article printed in the RECORD and I thank my good friend Clifton Daniel of New York for calling it to my attention.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times August 11, 1998]

FORMER SPECIAL COUNSELS SEE NEED TO ALTER LAW THAT CREATED THEM

(By Todd S. Purdum)

They are a rarefied roster of not quite two dozen, the men and women who have served as independent counsels investigating high Government officials over the last 20 years. They have delved into accusations of everything from cocaine use by a senior White House aide to perjury, influence-peddling and favor-trading, and have produced decidedly mixed results, from no indictments to convictions to reversals on appeal.

Some of them have been harshly criticized for taking too long, spending too much or criminalizing conduct other prosecutors would most often not bother with. But as Kenneth W. Starr's investigation of President Clinton has moved from scrutiny of a tangled real estate investment to intimations of intimacy with an intern, the law that created independent counsels has come under attack as almost never before.

Interviews in the last week with seven of the people who have held the job since that law, the Ethics in Government Act of 1978, was adopted in the wake of Watergate produced broad consensus that the statute was needed but might have to be overhauled if it was to be renewed by Congress when it expires next year.

The former counsels were unanimous on one point: all were glad to have served. But a majority also said that as currently written, the law covered too many officials and too many potential acts of wrongdoing, and left the Attorney General too little discretion about when to invoke it.

''It should be limited to activities that occur in office,'' said Lawrence E. Walsh, who spent six years and $40 million investigating the Iran-contra affair and whose suggestions for changes were among the most sweeping. ''It should be limited to misuse of Government power and should not include personal mistakes or indiscretions. The enormous expense of an independent counsel's investigation and the disruption of the Presidency should not be inflicted except for something in which there was a misuse of power. That's not out of consideration for the individual; it's out of consideration for the country.''

And while the former counsels generally declined to comment on Mr. Starr's investigation, virtually all of them also said that wide experience as a criminal prosecutor or a defense lawyer—which Mr. Starr does not have—should be a requirement for the job.

''I believe strongly in the concept of an independent counsel to guarantee public confidence in the impartiality of any criminal investigation into conduct of top officials in the executive branch of our Government,'' said Whitney North Seymour Jr., who won a perjury conviction against Michael K. Deaver, a former top aide to President Ronald Reagan who was accused of lying about his lobbying activities after leaving office.

''However,'' Mr. Seymour continued, in comments generally echoed by his colleagues, ''appointments to that position should be limited to lawyers with proven good judgment and extensive prior experience in gathering admissible evidence, developing corroboration and satisfying the trial standard of reasonable doubt. We simply cannot afford the spectacle of on-the-job training in such a sensitive position.''

Since Arthur H. Christy was appointed in 1979 to investigate accusations that Hamilton Jordan, President Jimmy Carter's chief of staff, had used cocaine at Studio 54—a case that ended with no indictments—there have been a total of 20 independent-counsel investigations, some conducted by more than one prosecutor. The names of the targets of two investigations in the Bush era, and the counsels who conducted them, were sealed by court order. One investigator, Robert B. Fiske Jr., was appointed by Attorney General Janet Reno in 1994, at a time when the law had expired, and was replaced four years ago last week by a three-judge Federal panel that chose Mr. Starr instead, but Mr. Fiske had essentially all the same powers.

Five investigations of Clinton Administration officials, including Mr. Starr's, still await outcome, and Ms. Reno remains under intense pressure to ask the judicial panel for yet another independent counsel, to look into campaign finance abuses. No effort was made to interview those conducting active investigations, or the counsel who ended his investigation of Commerce Secretary Ronald H. Brown after Mr. Brown's death in a plane crash in 1996.

ENORMOUS POWER AND INTENSE ISOLATION

A common theme in the remarks of the seven former counsels who agreed to be interviewed was the momentous power and isolation of the job, a universe of solitude and solemn responsibility.

''In terms of individual power, I never had anything like this,'' said Mr. Walsh, who had served as a Federal district judge and Deputy Attorney General in the Eisenhower Administration. ''Night after night, I'd wake up in the middle of the night. I kept a notebook by my bed, and the only way I could get back to sleep was to write down whatever was bothering me. I'd worry about my travel expenses, thinking, 'This is going to seem very high.' ''

When Mr. Fiske set up shop to investigate Whitewater, he forsook the companionship of the only four friends he had in Little Rock, Ark., who all happened to be leading lawyers with ties to the city's political and legal establishment.

Scholarly critics of the independent counsel law, including a Supreme Court Justice, Antonin Scalia, have argued that it creates built-in incentives for prosecutors to pursue evidence and avenues of inquiry that law-enforcement officials might otherwise decide were never likely to bear fruit. Those incentives: simply the intense political pressure and public scrutiny that surround any appointment, and the requirement that the prosecutor produce a detailed report justifying all the effort.

That concern was also common among the former prosecutors themselves.

''There ought to be some way to limit the ability of an independent counsel to expand his or her investigation, to keep their eye on the original target they were initially appointed to investigate,'' said James C. McKay, whose conviction of Lyn Nofziger, a former Reagan aide charged with violating ethics laws on lobbying, was overturned on appeal after an inquiry that lasted 14 months and cost $3 million. ''When you think of how the Starr investigation started with Mr. Fiske and Whitewater and now what's become of it, it just seems that there should be some way to have prevented that from occurring.''

Joseph DiGenova, who ultimately brought no charges after a three-year, $2.2 million investigation into accusations that senior Bush Administration officials improperly sought information from Bill Clinton's passport files during the 1992 campaign, was the sole former prosecutor to condemn the law altogether, and he said it should not be renewed.

''All of the usual governors, both legal and practical, are absent, because of the special nature of the statute,'' said Mr. DiGenova, who argues that once the law is invoked, prosecutors are forced to bring ''an unnatural degree of targeted attention'' to the case.

DISCRETION THAT CUTS IN EITHER DIRECTION

Mr. Fiske, who like Mr. Walsh and Mr. DiGenova thinks any law should cover investigation of only the President, the Vice President and the Attorney General rather than the 75 or so senior Government and campaign officials now automatically covered, also worries about the potential for abuse.

''Once the person is selected, it's like recalling a missile,'' Mr. Fiske said. ''You can't recall it, and it's kind of unguided, except by its own gyroscope. And so all these things are judgment calls.''

But like his colleagues, he emphasized that a prosecutor's wide discretion ultimately cut both ways. He recalled that David Hale, a former municipal judge in Arkansas, having pleaded guilty and begun cooperating in the Whitewater case, provided much useful information, along with some that seemed far afield.

''There were a lot of other things that David Hale told us that we could have investigated under our charter,'' Mr. Fiske recounted, ''but I just said, 'This is too far removed from what we were supposed to be doing.' ''

Several of the prosecutors expressed concern that the current law led too easily to the appointment of independent counsels. Every time the Attorney General receives from a credible source specific allegations of wrongdoing by an official covered under the act, she has 30 days to decide, without compelling anyone's testimony, whether a preliminary investigation is warranted. If she concludes that it is, then she must decide within 90 days whether there are ''reasonable grounds'' to believe that further investigation is warranted. If there are, she must apply to the special three-judge court for appointment of an independent counsel.

''That time limit now is too brief,'' Mr. McKay said.

But one of the former prosecutors, who spoke only on the condition of anonymity, said that the law was sound as written and that complaints that it invited prosecutorial vendettas were overblown. Mr. Seymour also rejected complaints of unbridled power, saying he had had no more leeway as independent counsel than he had earlier had as United States Attorney in Manhattan in the Nixon Administration.

''The United States Attorney for the Southern District has almost unlimited